



**U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814**

April 3, 2019

VIA EMAIL

Paul Gottinger
MuckRock News
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RE: Freedom of Information Act Request No. 19-F-00079; detailed calendars for acting chairman Ann Marie Buerkle from the dates January 1, 2017 to December 31, 2017

Dear Mr. Gottinger:

Thank you for your Freedom of Information Act (FOIA) request seeking information from the U.S. Consumer Product Safety Commission (CPSC) regarding Acting Chairman Ann Marie Buerkle's calendar from January 1, 2017 to December 31, 2017 timeframe.

Acting Chairman Buerkle's calendar is made public through the Commission's website, located at <https://www.cpsc.gov/Newsroom/Public-Calendar>. However, because the CPSC Public Calendar does not contain a list of her interviews and media appearances, enclosed please find a copy of those calendar entries. Note: Telephone numbers and passcodes contained in the attachment were withheld under FOIA Exemption 6 because the disclosure of that information would constitute an unwanted invasion of personal privacy. *See* 5 U.S.C. 552(b)(6) (exempting from disclosure "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy").

The Agency proactively discloses a public calendar to shed light on its actions. *See* 5 U.S.C. 552(a)(2)(D). That public calendar contains, *inter alia*, information regarding meetings between the Chair, the Commissioners, and CPSC staff, with all outside parties, whether those meetings are open or closed. *See* 5 U.S.C. 552b; 16 C.F.R. Part 1012.

Beyond the public calendar, and the attached document, entries referencing, pre-decisional meetings between Acting Chairman Buerkle and internal CPSC staff, and other government officials that are contained on Acting Chairman Buerkle's individual calendar are deliberative and as such are withheld pursuant to Exemption 5 of the FOIA, which exempts from disclosure "inter-agency or intra-agency memorandums or letters that would not be available by law to a

party other than an agency in litigation with the agency.” *See* 5 U.S.C. 552(b)(5); *see also* DEP’T OF JUSTICE, GUIDE TO THE FREEDOM OF INFORMATION ACT, Exemption 5, 12-13 (May 17, 2014)(“The deliberative process privilege is designed to protect the ‘decision making processes of government agencies’” and “this privilege protects not merely documents, but also the integrity of the deliberative process itself” such that “even the status of an agency decision within an agency decision making process may be protect[a]ble if the release of that information would have the effect of prematurely disclosing ‘the recommended outcome of the consultative process . . . as well as the source of any decision.’”)(citations omitted).

The other entries on Acting Chairman Buerkle’s individual calendar are personal in nature, do not shed light on any agency actions, reveal the identities of persons having no business before the agency, and are therefore exempt from disclosure under FOIA Exemption 6. *See* 5 U.S.C. 552(b)(6) (exempting from disclosure “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy”); *see also* *Consumer Federal of America v. Dep’t of Agric.*, 455 F.3d 283, 293 (D.D.C. 2006)(finding “the personal entries [on officials’ calendars] may be redacted”)(citing *Bureau of National Affairs v. Dep’t of Justice*, 742 F.2d 1484, 1496 (D.C.Cir.1984)).

This completes the processing of your request.

FOIA Administrative Procedures

Right to appeal. According to the Commission’s FOIA regulations at 16 C.F.R. § 1015.7, a partial denial of access to records may be appealed. If you are not satisfied with the response to this request, you may administratively appeal by writing and addressed to FOIA APPEAL, General Counsel, ATTN: Division of the Secretariat, U.S. Consumer Product Safety Commission, 4430 East West Highway, Room 820, Bethesda, MD 20814-4408. Your appeal must be postmarked or electronically transmitted (cpscfoiarequests@cpsc.gov) within 90 days of the date of the response to your request. You may also fax your appeal at 301-504-0127.

Before filing a formal appeal with the Commission, you may contact me using the contact information below, or the Commission’s FOIA Public Liaison, Deborah Acosta (dacosta@cpsc.gov) for any further assistance and to discuss any aspect of your request.

Right to mediation. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 201-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Fees. The cost to the Commission to prepare this information was **\$0.00**.

Sincerely,

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